

2006 LEGISLATIVE SUMMARY

AB 385 (Lieber), Chapter 41. PROPERTY TAX: QUALIFIED SPECIAL TAX EXEMPTION: DISABLED PERSONS. Authorizes school districts to exempt disabled persons from special taxes. Expands an existing exemption from "qualified special taxes" that may be imposed by a school district to include any persons receiving Supplemental Security Income for a disability, regardless of age.

AB 970 (Torrico), Chapter 343. INCOME TAX ADMINISTRATION: NONRESIDENT DIRECTORS: GROUP TAX RETURNS. Authorizes the FTB to provide for the filing of a group return for nonresident corporate directors who receive compensation for director services, including attendance at board of directors' meetings that take place in California. Directs the FTB to prepare forms and instructions setting forth filing requirements. Permits nonresident corporate directors to elect to satisfy their personal tax filing requirements by reporting their income on the group return, paying tax at the highest marginal rate imposed on individuals with no deductions allowed.

AB 1282 (Mullin), Chapter 712. INCOME TAXES: CREDITS: CHILD CARE. Extends the Employer Child Care Program Credit and the Employer Child Care Contribution Credit for five years until January 1, 2012. Requires the FTB to report to the Legislature on or before January 1, 2011 regarding the dollar amount of the credits claimed annually and the number of employer's children served by the qualified child care plan receiving the credit. Requires taxpayers taking the contribution credit to report to the FTB the number of children served by the qualified child care plan.

AB 1418 (Jerome Horton), Chapter 716. TAX ADMINISTRATION: PUBLIC DISCLOSURE OF TAX DELINQUENCIES. Requires the BOE (on a quarterly basis) and the FTB (on an annual basis) to make public record lists of the top 250 taxpayers with delinquencies in excess of \$100,000.

AB 1749 (Jerome Horton), Chapter 501. CIGARETTE AND TOBACCO PRODUCTS. Requires a manufacturer or importer of tobacco products to obtain a license under the state tobacco licensing program administered by the BOE. Revises the definition of "importer," and makes other clarifying changes. Allows additional payment alternatives for a distributor that desires to defer payments for stamps or meter register settings.

AB 1798 (Berg), Chapter 896. DISASTER RELIEF: NORTHERN CALIFORNIA: 2005 AND 2006 RAINSTORMS: DESIGNATED COUNTIES . Adds the severe rainstorms that occurred in the Counties of Del Norte, Humboldt, Lake, Mariposa, Mendocino, Napa, Sonoma, and Trinity in December 2005 and January 2006 to the list of disasters eligible for full state reimbursement of local property tax losses, beneficial

homeowners' exemption treatment, full state reimbursement of local agency costs under the Disaster Assistance Act, and favorable net operating loss carryforward treatment.

AB 1890 (Mountjoy), Chapter 317. PROPERTY TAXATION: TRANSFER OF BASE YEAR VALUE: DISASTER RELIEF. Extends the term for acquisition of replacement property following occurrence of a disaster to five years after the disaster. Applies to any property acquired to replace property destroyed by a disaster occurring on or after July 1, 2003.

AB 2001 (Cogdill), Chapter 70. CIGARETTE AND TOBACCO PRODUCTS TAX: PAYMENT. Deletes the repeal date to indefinitely extend the following payment options for cigarette stamps: (a) distributor's election to make payments on a twice-monthly basis for amounts owing for stamps and meter register settings purchased on a deferred basis; (b) reduced security for distributors that elect to make deferred payments on a twice-monthly basis; and (c) a distributor's election to either file a return and remit payment of the amount of the tax on a monthly or twice-monthly basis.

AB 2085 (Parra), Chapter 607. VOLUNTARY CONTRIBUTIONS. CALIFORNIA MILITARY FAMILY RELIEF FUND. Modifies the eligibility requirements for the California Military Relief Fund recipients. Specifies that a recipient's salary will only have to be decreased by 10% or more, not 30% or more, in order to be eligible for receiving financial aid grants. Extends the required 10% difference between civilian salary and military salary to be met by household income of the California National Guard Member's family. Reduces the 100 consecutive day deployment rule to 60 consecutive days.

AB 2182 (Mullin), Chapter 417. PROPERTY TAX: ASSESSMENT: VALUATION FACTORS. Directs the BOE to conduct a study, in consultation with the California Assessors' Association and representatives of the computer, semiconductor, and biopharmaceutical industries, in order to update the annual valuation factors to be applied to nonproduction computers, semiconductor manufacturing equipment, and biopharmaceutical industry equipment and fixtures. Creates a rebuttable presumption that the assigned valuation factors establish full cash value if the information used to establish the valuation factor has been reviewed within the preceding six years.

AB 2239 (Emmerson), Chapter 352. SALES AND USE TAX: VEHICLES. Allows an owner to present evidence to rebut the presumption that a vehicle purchased out of California, but brought into this state within 12 months of its purchase, is subject to California use tax.

AB 2341 (Villines), Chapter 773. TAX CLEARANCE CERTIFICATE: MINIMUM TAX RELIEF. Provides that the minimum tax will not be imposed against certain business entities in limited circumstances. Makes numerous conforming amendments to the Corporations Code to delete the requirement that a business entity obtain a tax clearance certificate from the FTB prior to specific entity changes that result in the

cancellation of the existence of at least one entity (e.g., dissolution, merger, conversion, etc.). Provides special grants of dissolution to entities that filed certificates of dissolution prior to the effective date of this bill.

AB 2439 (Klehs), Chapter 90. INCOME TAX: DIRECT DEPOSIT OF TAX REFUNDS: MULTIPLE ACCOUNTS. Authorizes the FTB to allow an individual taxpayer to request that his or her tax refund be electronically deposited into more than one checking or savings account at a financial institution.

AB 2485 (Jones), Chapter 296. VOLUNTARY CONTRIBUTIONS: CALIFORNIA SEA OTTER FUND. Authorizes the addition of the California Sea Otter Fund income tax checkoff to the personal income tax form upon the removal of another income tax checkoff from the form.

AB 2533 (Leno), Chapter 281, SALES AND USE TAX EXEMPTION: ART. Provides an exemption from Sales and Use Tax to original works of art leased for 35 years or more from one nonprofit organization to another, or leased by a state or local government.

AB 2719 (Houston), Chapter 616. PROPERTY TAX: POSTPONEMENT BY SENIOR CITIZENS AND DISABLED PERSONS. Amends the existing Senior Citizens and Disabled Citizens Property Tax Postponement Law (Program) to increase the maximum household income amount for claimants to qualify for postponement of property taxes. Increases the maximum household income allowed for participation in the Program as follows: (a) for claimants filing for postponement in calendar year 1983 and for whom postponement has been allowed for every subsequent year up through and including calendar year 2007, to \$35,500 for calendar year 2008; (b) for all other claimants, to \$31,500 and to \$35,500 for calendar years 2007 and 2008, respectively; and (c) for all claimants, to \$39,000 for calendar year 2009. For subsequent calendar years commencing with 2010, provides for an annual inflation adjustment based upon the change in the California Consumer Price Index

AB 2735 (Nava), Chapter 897. DISASTER RELIEF: NORTHERN CALIFORNIA: 2005 AND 2006 RAINSTORMS: DESIGNATED COUNTIES. Adds the severe rainstorms that occurred in December 2005, and January 2006 to April 2006, in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lassen, Marin, Mariposa, Merced, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba to the list of disasters eligible for full state reimbursement of local property tax losses, beneficial homeowners' exemption treatment, full state reimbursement of local agency costs under the Disaster Assistance Act, and favorable net operating loss carryforward treatment.

AB 2831 (Ridley-Thomas), Chapter 580. INSURANCE, INCOME AND CORPORATION TAX CREDITS: COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION TAX CREDITS. Amends existing law that allows credits against the tax imposed on insurers or under the personal income and corporation tax laws for specific investments with a Community Development Financial Institution and extends the sunset date until January 1, 2012. Limits the aggregate amount of qualified investments for all of the tax credits to \$10 million in any taxable year. Allows the excess of \$10 million over the actual aggregate qualified investments made in any year to be carried forward to the succeeding year, and added to the maximum authorized amount for that year. Establishes the following reservations on aggregate qualified investments until July 1 of each year: 25% to investments by admitted insurers and \$3 million to investments by individuals (in amounts not to exceeds \$300,000).

AB 2962 (Benoit), Chapter 428. TAXATION: WITHHOLDING ON REAL ESTATE TRANSACTIONS. Allows a real estate transferor to elect to compute the required withholding tax from the sale of California real estate based upon the expected reportable gain. Requires the FTB to develop a form for the written certification of the alternate withholding amount; to make the form available electronically on its Website in a format that allows a transferor to complete and print the form; and to provide electronic means to enable the transferor to estimate the amount of gain to be recognized on the transaction.

AB 3076 (Committee on Revenue and Taxation), Chapter 364. TAX ADMINISTRATION: BOARD OF EQUALIZATION. Enacts several technical proposals intended to improve administration of the special tax and fee programs by the BOE. Enacts several technical proposals recommended by the County Assessors that: (a) treat floating homes on leased berths consistently as manufactured homes located on leased land; (b) allow taxpayers aged 55 and older or severely disabled to transfer the base year value of a personal residence on a prospective basis with a late-filed claim; and (c) delete extraneous language related to the response time for an assessor's request to file an application for disaster relief.

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SB 763 (Lowenthal), Chapter 634. GEOGRAPHICALLY TARGETED ECONOMIC DEVELOPMENT TAX INCENTIVES: ADMINISTRATION: VOUCHER FEES. Expands existing authority for the Department of Housing and Community Development to impose a fee for processing certification applications for businesses applying for hiring credits within enterprise zones to all economic development area programs.

SB 1249 (Alquist), Chapter 645. VOLUNTARY CONTRIBUTIONS: CALIFORNIA FUND FOR SENIOR CITIZENS. Removes the annual inflation factor adjustment on the minimum tax contribution needed for the California Fund for Senior Citizens to remain on the tax form. Clarifies the application of the inflation factor to 11 other income tax

checkoffs on the tax form and the process by which the FTB communicates to each charity the minimum contribution level it will need to achieve in the upcoming year to remain on the tax form.

SB 1341 (Cedillo), Chapter 373. SALES AND USE TAX EXEMPTION: CHARITABLE THRIFT STORES. Extends by five years, from January 1, 2007 to January 1, 2012, the sunset date on the sales and use tax exemption on sales of merchandise by thrift stores whose proceeds benefit individuals with HIV or AIDS.

SB 1374 (Cedillo), Chapter 513. TAX ADMINISTRATION: RELEASE OF TAXPAYER INFORMATION. Extends the sunset date of existing law permitting limited sharing of tax information between the FTB and contracting cities from December 31, 2008 to December 31, 2011. Provides that nothing in this bill shall be construed to affect any obligations, rights, or remedies regarding personal information provided under state or federal law.

SB 1400 (Kehoe), Chapter 251. PROPERTY TAXATION: POSSESSORY INTEREST EXEMPTION: MILITARY HOUSING. Amends existing laws that provide a private contractor's interest in military housing is exempt from taxation as a possessory interest if the interest is subject to Military Housing Privatization Initiative oversight and constraints. Defines the phrase "military facility under military control" as a military base that restricts public access to the military base.

SB 1449 (Migden), Chapter 252. SALES AND USE TAX FRAUD. Establishes a 40% penalty for knowingly collecting sales or use tax reimbursement and failing to timely remit that tax reimbursement to the BOE. Does not apply to any person whose unremitted sales or use tax reimbursement averages \$1,000 or less per month or does not exceed 5% of the total measure of tax reimbursement collected for the period in which tax was due, whichever is greater. Authorizes the BOE to relieve a person of the penalty due to reasonable cause or circumstances beyond the person's control. Creates a date certain (July 20) as the final day to file a written request for review, equalization or adjustment of an assessment of publicly owned taxable property

SB 1607 (Machado), Chapter 224. PROPERTY TAXATION: ADMINISTRATION. Makes numerous technical corrections and implements items dealing with administration of property taxes. Amends the welfare exemption rules to require documentation confirming tax-exempt status of the organization and to permit governmental entities and nonprofit organizations to be members of limited liability companies that may qualify for the welfare exemption. Implements the veterans' organization property tax exemption consistent with the welfare exemption. Modifies legislative intent language related to transfers of property between grandparents and grandchildren to be consistent with that addressing transfers of property between parents and children.

SB 1637 (Committee on Veterans Affairs), Chapter 677. PROPERTY TAXATION: DISABLED VETERANS EXEMPTION. Makes technical changes to the law governing

disabled veteran's exemption claims. Changes existing law for applications for exemption. Amends the applicable date for the disabled veteran's exemption to be the effective date, as determined by the United States Department of Veteran Affairs, of the disability that qualifies the claimant for the exemption. Clarifies existing law to allow claims to be deemed timely filed if the property became eligible for the disabled veteran's exemption after the lien date for a fiscal year provided that the appropriate application is filed on or before the next lien date.

SB 1827 (Migden), Chapter 802. PERSONAL INCOME TAX: FILING STATUS: DOMESTIC PARTNERS. Requires registered domestic partners to file either a joint state income tax return or married filing separate state income tax returns, applying the standards applicable to married couples under federal income tax law. Specifies a rule pertaining to the reporting of adjusted gross income (AGI) of registered domestic partners filing joint returns, for the purpose of computing limitations on itemized deductions and credits which are based on AGI (since current state law uses the federal definition of AGI). The new state rule would simply combine the separately-reported AGI on the federal returns of the registered domestic partners. Revise provisions of the Family Code to treat registered domestic partners as married persons for purpose of filing status.

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AB 675 (Klehs). CORPORATION TAXES: RECONCILIATION OF BOOK INCOME AND TAXABLE INCOME. Requires a corporation with assets in excess of \$10 million, whose stock is traded on a public stock exchange, to file an information return with the FTB reflecting the differences between income reported for financial reporting and tax reporting purposes.

Governor's Veto Message:

"This bill requires businesses with assets over \$10 million to file an 'information return' in addition to their tax return with the Franchise Tax Board, to explain the difference between their book income and their taxable income.

"This bill imposes significant penalties for any information return that is 'incomplete'.

"While this bill purports to offer shareholders protection against corporations engaging in tax shelter schemes, it only creates a level of

additional bureaucracy and unnecessary costs on top of many significant legal and oversight protections put in place after the Enron scandal.

"In response the public's outrage over the Enron scandal, significant new laws and regulations were enacted by Congress and the Securities and Exchanges Commission (SEC) to protect shareholders and ensure accurate disclosure of earnings on financial statements.

"The Sarbanes-Oxley Act of 2002, contains eleven titles and sections governing auditor independence, corporate governance and enhanced financial disclosure. It also requires the certification of financial reports by chief executives and financial officers with enhanced civil and criminal penalties for violations, including significantly longer jail sentences and fines for corporate executives who misstate financial statements.

"In 2003, the SEC approved additional reforms for accountability, integrity and transparency for all publicly traded companies, including the use of any non-accepted accounting "tricks" to overstate the company's financial health.

"California passed laws further enhancing this protection and required corporations report to the State Board of Accountancy whenever it restates its earnings.

"Requiring yet and [sic] additional "information return" be filed with the state is unnecessary and will add costs and burdens to doing business in California without offering protection to shareholders they don't already have."

AB 799 (Leno). LOCAL VEHICLE LICENSE FEE: SAN FRANCISCO. Authorizes the Board of Supervisors of the City and County of San Francisco, by a 2/3 vote of the Board, to place before its voters a measure to levy an additional vehicle license fee on vehicles operated by residents of San Francisco.

Governor's Veto Message:

"Within hours of taking office in 2003, I signed an Executive Order to reverse the car tax increase. That action returned \$4 billion to the people of California. Putting that money back into the hands of hard working Californians is one of the ways we have helped our economy grow over the last three years.

"This measure would, in effect, reinstate the car tax for the people of San Francisco. In fact, if the vehicle license fee increase proposed by this bill were enacted, the people of San Francisco could pay more than twice the amount to register their vehicles than anyone else in the state.

"As noted in my veto messages of prior years, I am not opposed to modest increases in fees if such increases are approved by the impacted voters and not addressed in a piecemeal fashion. Although this bill requires voter approval, it impacts only one county. In addition, the revenues generated by this bill would not be directed to projects related to vehicles but used to bolster the city's general fund. This is an unfair burden to place solely on the shoulders of motorists.

"Throughout the year, my administration worked with members of the legislature on a proposal that would have given all counties the authority to adopt, with voter approval, modest license fee add-ons to fund environmental and traffic mitigation programs. Unfortunately, those efforts were ultimately rejected. I encourage the Legislature to reconsider this decision when they return next year."

AB 926 (Chu). PROPERTY TAXATION: CHANGE IN OWNERSHIP: REPORTING. Revises existing requirements for reporting change of ownership in real property by substituting a \$10,000 maximum penalty for the existing \$2,500 cap on the penalty for failure to report a change of ownership statement for property other than property eligible for a homeowners' exemption; and for various other technical provisions.

Governor's Veto Message:

"The proponents of this bill make a reasonable argument that an increase is needed to the penalty imposed on property owners that fail to respond to a request from the county assessor regarding a property transfer. This penalty has not changed in 25 years, despite tremendous increases in property values.

"However, I am concerned that current procedures do not adequately ensure property owners actually receive requests from county assessors in a timely manner. It is inappropriate to raise penalties against property owners for not responding within a proscribed timeframe unless there is a reasonable assurance that the owners received the request in the first place.

"I encourage the proponents of this bill and property owners to develop procedures to ensure requests are appropriately delivered and received before penalties for failure to respond are levied."

AB 1029 (Jerome Horton). PROPERTY TAXATION: CHANGE OF REPORTING: ASSESSMENTS. Permits assessors to estimate the value of real property using available information following a change of ownership where the owner failed to provide the assessor with information regarding the change of ownership. Allows abatement of a penalty for failure to file the statement of change of ownership due to reasonable cause. Makes technical changes to the existing statute requiring the FTB to request and transmit information regarding changes of ownership during a taxable year.

Governor's Veto Message:

"Current law requires property to be reassessed at full market value when there is a change of ownership. When property is owned by a legal entity such as a corporation or partnership, a change of ownership occurs when one person or legal entity acquires more than 50 percent of the ownership interest.

"This bill would allow a county assessor to increase property taxes on a piece of property if the assessor has information that a change in ownership has occurred but a change own [sic] ownership statement has not been filed. While I support allowing county assessors to collect the appropriate tax on property that has changed owners, it is important to ensure that requests are sent to and received by the appropriate parties in order to establish a change of ownership has actually occurred before assessing additional taxes.

"I encourage the proponents of this bill to work with property owners to revise notification procedures to ensure proper notification is delivered to all impacted parties before increasing taxes."

AB 1614 (Ruskin) – INCOME TAXES: LIMITED LIABILITY COMPANY FEE: APPORTIONMENT. Clarifies existing law with respect to application of the LLC fee. Defines the phrase 'total income from all sources reportable to this state' as gross income plus the cost of goods sold derived from or attributable to this state under the apportionment and allocation rules. Applies to taxable years commencing on or after January 1, 2001

Governor's Veto Message:

"This bill would impact how fees are collected from businesses choosing to operate as limited liability companies. As litigation is currently pending regarding this matter, it is premature to take legislative action at this time."

AB 2171 (Berg). PROPERTY TAXATION: TAX ADMINISTRATION: EXCESS PAYMENT RECOVERY FEE: LIMITATION. Redefines the term "negotiable paper" for property tax purposes to be "checks, drafts, and money orders"; revises the provisions for the return of replicated property tax payments and sets standards for agreements to recover excess proceeds from the sale of tax defaulted property. Provides that any agreement to locate, deliver, recover, or assist in the recovery of excess proceeds shall not be valid unless: (a) the fee or compensation agreed upon does not exceed 10% of the value of the recoverable property; (b) the agreement is in writing; (c) the agreement discloses the nature and value of the property and the name and address of the person or entity in possession of the property; and (d) the agreement is signed by the owner of the property.

Governor's Veto Message:

"According to the author, this measure is intended to protect the elderly from being victimized when they inadvertently overpay their taxes. While I

strongly support efforts to protect the elderly from financial abuse, this measure is overly broad and does not address the primary issues the author is trying to fix.

"In attempting to protect the elderly who have overpaid their property taxes, this bill would create a blanket restriction on all contracts with companies who help lien holders collect excess proceeds from the sale of tax-defaulted property. As existing provisions in law already provide the elderly with additional protections from financial abuse and fraud, we must be careful not to place unnecessary restrictions on the rights of individuals and companies to freely enter into contracts for service.

"I am also concerned that this bill does not amend the appropriate provisions of law to achieve the authors stated goal of helping the elderly when they inadvertently overpay property taxes. The changes that this bill proposes are related to recovering excess proceeds from tax-defaulted property, not overpayment or replicated payment of property taxes. I recommend the author consider legislation next year to amend the sections of law that directly pertain to issues of overpayment."

SB 1208 (Ortiz). TOBACCO PRODUCTS: TRANSPORTATION INTO CALIFORNIA. Prohibits transportation of cigarettes and tobacco products, excluding cigars and pipe tobacco, to persons in California except when such shipments are made either to an entity that is licensed by BOE for tobacco transactions or to certain other specified entities, and broadens the definition of bidis under current law, which restricts the place of their sale to business establishments that exclude minors, and clarifies that persons who violate this prohibition are subject to both criminal and civil liability.

Governor's Veto Message:

"This bill would prohibit cigarette sales via the Internet to individual California consumers and only permit shipping of cigarettes via the Internet to state of California tobacco licensed businesses. Existing law reduces youth access to cigarettes over the Internet by requiring Internet sellers and shippers to verify the age of the purchaser, similar rules that apply to alcohol sales and shipments. In addition, the Board of Equalization is currently uses the federal Jenkins Act to recover excise taxes from Californians that have purchased cigarettes via out-of-state Internet websites."